

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TALECRIS BIOTHERAPEUTICS, INC.,)	
)	
Plaintiff)	
)	
v.)	
)	C.A. No. 05-349 GMS
BAXTER INTERNATIONAL INC., et al.,)	
)	
Defendants)	
)	
)	
BAXTER HEALTHCARE CORP.,)	
)	
Counterclaimant)	
)	
v.)	
)	
TALECRIS BIOTHERAPEUTICS, INC.)	
and BAYER HEALTHCARE LLC,)	
)	
Counterdefendants)	
)	
)	

ORDER

WHEREAS, on February 1, 2007, Baxter International Inc. and Baxter Healthcare Corporation (together “Baxter”) filed a letter requesting permission to file a summary judgment motion for non-infringement, and invalidity under 35 U.S.C. §112;

WHEREAS, upon review of the letters submitted by both sides, the court has determined that it will not permit summary judgment motions on the issues of infringement and invalidity under paragraph 1 of 35 U.S.C. § 112 (written description);

WHEREAS, the court will permit Baxter to file a summary judgment motion limited to the

issue of invalidity under paragraph 2 of 35 U.S.C. § 112 (indefiniteness); and

WHEREAS, the court expects both sides to squarely address the impact of the Federal Circuit decision in *Honeywell International Inc. v. Int'l Trade Comm'n*, 341 F.3d 1332 (Fed. Cir. 2003), and other relevant and related caselaw, on the issue of indefiniteness of the asserted claims of the patent-in-suit.

IT IS HEREBY ORDERED that:

Baxter's request to file a summary judgment motion is GRANTED IN PART and DENIED IN PART. Baxter may file a summary judgment motion limited to the issue of indefiniteness.

Dated: February 22, 2007

/s/ Gregory M. Sleet
UNITED STATES DISTRICT JUDGE